

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
PINE BLUFF DIVISION**

ELLIOTT FINCH, JR.

PETITIONER

VS.

5:18CV00128 BRW/PSH

**WENDY KELLEY, Director of the
Arkansas Department of Correction**

RESPONDENT

ORDER

I have received proposed Findings and Recommendations (Doc. No. 19) from Magistrate Judge Patricia S. Harris. After careful review of the Findings and Recommendations, the timely objections received thereto, and a *de novo* review of the record, I approve and adopt the Findings and Recommendations in all respects.

Under *Faretta v. California*, a Defendant has a Sixth Amendment right to represent himself if he knowingly and intelligently waives his right to a lawyer.¹ Having reviewed the evidence presented in the state court proceedings, I find that the State and the Arkansas Supreme Court's presumptively correct factual finding that Petitioner did not unequivocally request to represent himself was unreasonable and unsupported by the record. Petitioner made multiple, unequivocal requests to represent himself.

Accordingly habeas corpus relief is GRANTED for the reasons fully detailed in the Findings and Recommendations. The State is directed to either release Petitioner or provide him a new trial within 120 days of the date of this order. Judgment will be entered accordingly.

IT IS SO ORDERED this 10th day of June, 2019.

Billy Roy Wilson
UNITED STATES DISTRICT JUDGE

¹422 U.S. 806 (1975).